

# **EXHIBIT 23**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CESAR FERNANDEZ-RODRIGUEZ, ROBER  
GALVEZ-CHIMBO, SHARON HATCHER,  
JONATHAN MEDINA, and JAMES WOODSON,  
individually and on behalf of all others similarly  
situated,

*Petitioners,*

-v.-

MARTI LICON-VITALE, in her official capacity  
as Warden of the Metropolitan Correctional Center,

*Respondent.*

No. 20 Civ. 3315

DECLARATION OF EMIL  
MATUTE

EMIL MATUTE declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My name is Emil Matute and I have been housed at the Metropolitan Correctional Center (“MCC”) since May 22, 2018. My Registration Number is 85716-054. I have been housed on 7N since February 2020.
2. I am 25 years old.
3. I have no history of serious illnesses or medical conditions
4. There are 70-80 people detained on my unit. We are housed in double cells.
5. My cellmate and I both lost our sense of taste and smell for about three weeks, starting in mid to late March of 2020. I drink black coffee every morning. During this time, I could not smell or taste the coffee. Neither my cellmate nor I sought medical attention for our lost sense of taste and smell.
6. From early April 2020 until present we have been confined to our cells for 23 hours per day. While in our cells staff would come in and request to take our temperatures, if a

person's temperature was above normal that person was immediately be taken to the SHU.

7. In early April 2020, six or seven people from my unit have been taken off with COVID-19 symptoms, and taken to SHU. I have talked to six of them since they came back. All six said that when they were in SHU, they did not receive any medical care. They just had their temperatures taken daily.
8. From February 2020 until about two weeks ago, sick calls went unanswered.
9. We were given washable masks two weeks ago, but no detergent to wash the masks. Only people who have money can buy detergent on the commissary.
10. There is a toilet in our unit that has been leaking since February. It had been ripped from the wall when the officers were searching for the handgun that one of the officers had brought in. Mice crawled into the unit from the back of the toilet. Urine and feces leak into the unit from the back of the toilet. We have to put a mop in it to stop the waste from coming out.
11. The showers in our unit have light fixtures hanging from the ceiling with exposed electrical wires.
12. Two weeks ago, our unit was supplied a washer / dryer. Before that, laundry could not be done regularly.
13. From the beginning of the COVID-19 outbreak until May 8, 2020, we received only one hot meal per day. Beginning May 8, 2020—I believe in anticipation of the court-ordered inspection—we once again began receiving two hot meals a day. Lunches during this pandemic period often arrived frozen. We would use the overhead lights in our cells to try to thaw the lunch food. When we get box lunches, they often contain food that is

clearly expired or has gone bad. Last week I received two bags of chips, one with an expiration date of October 2019 and one with an expiration date of December 2019.

When we receive bread in plastic wrappers it is often moldy.

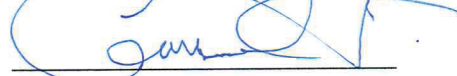
14. Since the pandemic started, mail has also been affected. Legal Mail that is stamped with red in "Special Mail – Legal Mail – Open only in the presence of Inmate" is opened before we receive it. Social mail comes very infrequently, only about one or two pieces a month.

15. We have been given no law library access.

16. On Thursday, May 7, 2020, we were given cleaning supplies by the officers and Assistant Warden Edge came around and told us to clean up everything.

Executed on: May 20, 2020  
New York, New York

As reported by Emil Matute to  
Thomas Ambrosio, Esq.



Thomas Ambrosio  
Attorney for Emil Matute